IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINETH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10345 of 2004

Between:
G.Pulla Rao, S/o. Venkateswara Rao,
R/o. Damaluru Village, Nandigama Mandal,
Krishna Dist.

..... PETITIONER

AND

1 Sri.Mallikarjuna Swamivari Temple, Somavaram Village, rep.by its Chairman Paritala Srinivasa Rao,
Somavaram Village, Nandigama Mandal, Krishna District.
2 The Assistant Commissioner of Endowments, Vijayawada,
Krishna Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction, more particularly in the nature of WRIT OF MANDAMUS declaring the action of the1st respondent in including the land of extent Ac. 3-50cents out of Ac. 11-00 cents in Sy.No. 202 of Somavaram Village, Nandigama Mandal, Krishna District in the proposed public action vide leaflet dt. 21-06-2004 on 24-06-2004 which was already granted on lease to the writ petitioner by lease dt. 15-03-2003 as arbitrary, illegal and untenable with a further direction not to disturb or interfere with the peaceful possession and enjoyment of the writ petition

For the Petitioner: Mr.B.NARASIMHA SARMA, Advocate

For Respondent No.1: M/s. Indrani, Advocate

For the Respondent No.2: GP FOR ENDOWMENTS

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the first respondent in proposing to conduct public auction of the leasehold rights in respect of land in an extent of Ac.3.50 cents out of Ac.11.00 in Survey No.202 of Somavaram Village, Nandigama Mandal, Krishna District, belonging to the first respondent – Temple.

2. According to the petitioner, lease was granted in his favour for the year 2003-2004 and 2004-2005 on payment of lease amount of Rs.4,000/- per annum in respect of the above land. It is also stated that in pursuance of the said lease, the petitioner paid advance amount of Rs.4,000/- for the year 2003-2004 on 25.03.2003. Similarly, for the present year i.e., 2004-2005, the petitioner has paid lease amount of Rs.4,000/- on 28.03.2004. Therefore, it is the case of the petitioner that with reference to the land in question, respondents are not entitled to conduct public auction of the leasehold rights for the year 2004-2005. Hence, sought for quashing of the notice issued by the first respondent proposing to conduct public auction with reference to the land in an extent of Ac.3.50 cents out of Ac.11.00 cents in Survey No.202 of Somavaram Village, Nandigama Mandal, Krishna District.

3. This court while ordering notice on 23.06.2002 directed the Standing Counsel appearing for the first respondent to get instructions with a further direction not to proceed with the auction in respect of the above extent of land pursuant to the notice issued by the first respondent. Today, it is represented by the learned Standing Counsel for the first respondent that no auction was held in respect of the entire

extent of land as invited. Further, it is stated that the Chairman of the first respondent – Temple did not submit the records to the person-in-charge, as in his place a person-in-charge has already been appointed, in the light of certain allegations against the Chairman. Therefore, on behalf of the first respondent, no counter could be filed. But, in view of the receipts filed by the petitioner, the learned counsel sought for suitable orders to be passed by this Court.

4. Heard both sides and considered material on record.

5. In view of the evidence submitted by the petitioner showing that there was a lease subsisting in respect of Ac.3.50 cents out of Ac.11.00 in Survey No.202 of Somavaram Village, Nandigama Mandal, Krishna District in his favour, the respondents are not entitled to conduct auction with reference to the said land for the year 2004-2005. It is also further made clear that it is open to the respondents to hold public auction in respect of the above land after completion of the current year i.e., 2004-2005.

6. The writ petition is accordingly disposed of with the above directions. No costs.

29.06.2004
Note: Furnish CC by Friday
B/o
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To
1 The Chairman, Sri.Mallikarjuna Swamivari Temple, Somavaram Village, Somavaram Village, Nandigama Mandal, Krishna District.
2 The Assistant Commissioner of Endowments, Vijayawada, Krishna Dist.
3 Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad (OUT)
4 Two CD Copies